IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 24083 of 2004

Between:

1 Gajula Lingaiah, S/o.Mallaiah,
R/o. Sabbitham Village, Peddapalli Mandal, Karimnagar District.
2 Gajula Ramaiah S/o.Pochaiah
R/o. Sabbitham Village, Peddapalli Mandal, Karimnagar District.

..... PETITIONERS

AND

1 The Land Acquisition officer/Special Deputy Collector, Land Acquisition Unit, L.M.D. Colony,
Karimnagar, Karimnagar District.
2 The Special Collector Sri Ram Sagar Project, Tarnaka, Hyderabad.
3 The State of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue (LA) Department,
Secretariat Buildings, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus: i) declaring the Memo No.25646/LA(A2)/2002, dated 12.11.2002 of the Respondent No.3 as arbitrary, illegal, violative of Article 14 of Constitution of India and contrary to the Judgment of the Hon'ble Supreme Court of India in Sunder Vs.Union of India (C.A.No.6271 of 1998, dt.19.9.2001) reported in (2001) 7 SEC 211 and consequently set aside the same;

Counsel for the Petitioner:MR.A.SUDERSHAN REDDY

Counsel for the Respondents.: GP FOR LAND ACQUISITION

The Court made the following :

ORDER:

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This writ petition is filed to declare the Memo No. 25646/LA(A2)/2002, dated 12-11-2002 issued by the Respondent No.3 as arbitrary, illegal under Article 14 of the Constitution of India and contrary to the judgment of the Supreme Court of India in ***Sunder Vs. Union of India*** (C.A.No. 6271 of 1998, dated 19-9-2001) reported in (2001) 7 SEC 211.

2. The brief facts of the case leading to filing of this writ petition by the petitioners are :-

The land of the writ petitioners was acquired by the Government for constructing balancing reservoir. A reference was made to the Civil Court with regard to the enhancement of the compensation under Section 18 of the Land Acquisition Act. The learned Subordinate Judge, Peddapalli took the reference on file as O.P.No. 45 of 1992 and fixed the compensation at Rs.17,000/- per acre for dry land and Rs.25,500/- per acre for wet land by order dated 27-1-1999. The order passed by the Subordinate Judge, Peddapalli came to be confirmed by Division Bench of this Court in A.S.No. 1934 of 2001. The 1st respondent unsuccessfully filed SLP (Civil) No. 9997 of 2003 before the Apex Court. The petitioners filed E.P.No. 6 of 2000 on the file of the Subordinate Judge, Peddapalli for realization of the decretal amount. The petitioners calculated interest on the compensation amount as per the order of the Civil Court. The 2nd respondent who is the judgment debtor in O.P. 45 of 1992 seems to have filed certain objections. The writ petitioners apprehending that the executing Court may not grant interest on the solatium in view of the memo No. 25646/LA (A2)/2002 , dated 12-11-2002 by the 3rd respondent, the petitioners have filed this writ petition questioning the said memo.

3. The learned counsel for the petitioners submits that the Memo No.25646/LA(A2)/2002, dated 12-11-2002 issued by the 3rd respondent disallowing the interest on the solatium is contrary to the judgment of the Supreme Court and therefore it is to be declared as null and void.

4. The learned Government Pleader submits that the apprehension of the writ petitioners is not based on sound reasons and that the respondents are obliged to

pay the amount as per the Award.

5. It has come on record that the petitioners have filed E.P. 6 of 2000 and the same is pending on the file of the Senior Civil Judge, Peddapalli. As per the terms of the decree the respondents have to pay 15% interest on the compensation amount. Clause (3) of the decree passed in O.P. No.45 of 1992 reads as follows:-

> *"That the claimants be and hereby are entitled to solatium at the rate of 30% additional market value at the rate of 12% from the date of notification i.e. 22-3-1989 to the date of award proceedings i.e. 16-5-1990 and interest at the rate of Rs.9% for a period of one year from 2-12-1989 to 1-12-1989 there after at the rate of 15% p.a., till the date of realization on the compensation amount".*

6. As per the decree passed in O.P.No. 45 of 1992, the petitioners are entitled to interest at 15% on the compensation amount. It is for the executing Court to decide whether the amount claimed by the petitioners is in accordance with the terms of the decree passed in O.P.No. 45 of 1992. The administrative instructions if any given by the Government does no supercede the decree granted by the Civil Court.

7. Accordingly, the writ petition is misconceived and the same is hereby dismissed. No order as to costs.

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B..Seshasayana Reddy,J.

7th June, 2005.

Note:

C.C. in a week.

B/o

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Land Acquisition officer/Special Deputy Collector, Land Acquisition Unit, L.M.D. Colony,
Karimnagar, Karimnagar District.
2 The Special Collector Sri Ram Sagar Project, Tarnaka, Hyderabad.
3 The State of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue (LA) Department,
Secretariat Buildings, Hyderabad.

4. 2 CCs to G.P. for Land Acquisition High Court Buildings, Hyderabad (OUT)

5. 2 CD copies

6. 1 CC to MR.SUDERSHAN REDDY

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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7th June, 2005